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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,832

02/28/2007

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050826

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23850 7590 03/02/2010
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EXAMINER

HILTON, ALBERT

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

03/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,832	Applicant(s) KAMATA ET AL.	
	Examiner ALBERT HILTON	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/23/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a first action on the merits. Claims 1-10 are pending.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Objections to claims 1-9 are lifted in light of the amended claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by MOEN (US Patent No. 3273757).

3. Regarding claim 1, MOEN describes a nozzle (**liquid dispenser 10**) comprising a receiver (**spool 56**); a first nozzle part (**barrel 22**) formed in a cylindrical shape, the first nozzle part (**22**) communicating with the receiver (**56**), the first nozzle part (**22**) being coaxial with and separate from the receiver (**56**); and a second nozzle part (**tip insert 32**) formed in a cylindrical shape having an inner diameter smaller than that of the first nozzle part (**22**), and an outer diameter equal to that of the first nozzle part (**22**), the second nozzle part (**32**) being connected to the first nozzle part (**22**), wherein the second nozzle part (**32**) is disposed nearer to the coating object than the first nozzle

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part (22), and wherein between the first (22) and second (32) nozzle parts there is formed a step (see **A** in diagram 1 below) protruding from the inner surface of inwardly between the first nozzle part (22) toward the inside of and the second nozzle part (32) (MOEN: column 4, lines 8-10, 33-35, and Fig. 2).

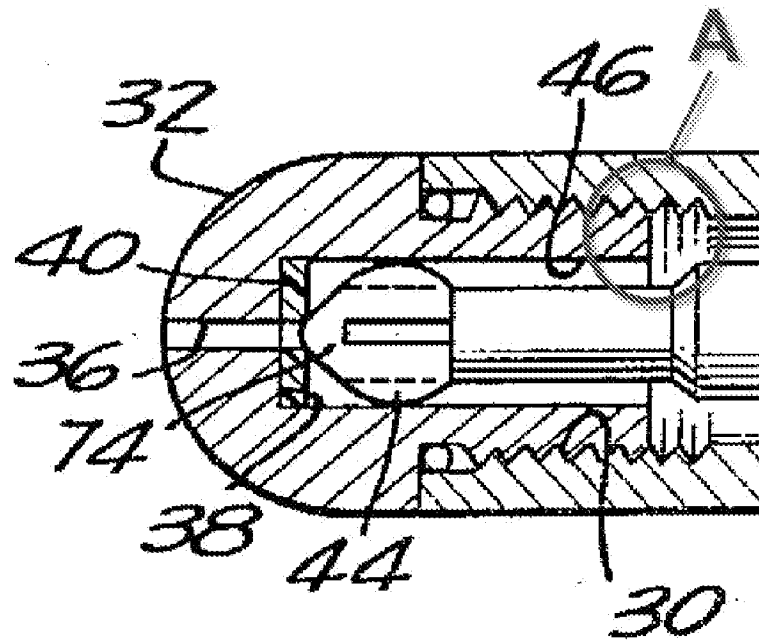


Diagram 1

4. Regarding claim 2, the step (**A**) is formed flat in a direction crossing at right angles in a direction in which the dispensed fluid flows in the first (22) and second (32) nozzle parts.

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5. Regarding claim 3, the step **(A)** in the nozzle of MOEN is formed flat in a direction crossing both a direction in which the dispensed fluid flows in the first **(22)** and second **(32)** nozzle parts and a direction crossing at right angles the direction in which the fluid flows.
6. Regarding claim 4, the step **(A)** in the nozzle of MOEN is formed on the first nozzle part **(22)**.
7. Regarding claim 5, the first **(22)** and second **(32)** nozzle parts in the nozzle of MOEN are connected coaxially with each other.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over MOEN.

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8. Regarding claims 6-8, MOEN discloses a nozzle (**liquid dispenser 10**) comprising a first (**barrel 22**) and a second (**tip insert 32**) part (MOEN: column 4, lines 8-10, and Fig. 2). MOEN does not specify the precise ratio of the length (L) of the first part (**22**) to the length (l) of the second (**32**) part. However, the use of a first part (**22**) of length L and a second part (**32**) of length l such that $8 \leq L/l \leq 10$ represents a mere change in the shape and proportion of the parts that would not alter the function of the nozzle in a patentably distinct way over the prior art (SEE MPEP 2141.01). One of ordinary skill in the art at the time of the invention would find it obvious that nozzles with a broad variety of different length ratios could be created. Similarly, while MOEN does not disclose the precise ratio of the diameter (D) of the first part (**22**) to the diameter (d) of the second (**32**) part, one of ordinary skill in the art would have found it obvious that nozzles satisfying the condition $4 \leq D/d \leq 6$ could be used, as well as nozzles that simultaneously satisfy the conditions $8 \leq L/l \leq 10$ and $4 \leq D/d \leq 6$ without altering the function of the nozzle in a patentably distinct way over the prior art.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over MOEN as applied to claims 1-8 above, and further in view of RAU (US Patent No. 4897439).

9. Regarding claim 9, MOEN does not specifically disclose what materials the second nozzle part of the nozzle is composed of. However, as RAU teaches, a variety of composite materials are used to fabricate apparatus used therein (RAU: column 1, lines 17-31). Further RAU teaches it is well-known in the art that polyether ketone (PEK) is a material with a variety of useful properties, such as high tensile strength and good

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resistance to wear, creep, and corrosion (RAU: column 7, lines 42-51 and column 2, lines 8-18). One of ordinary skill in the art at the time motivated by a need to improve the durability of the nozzle of MOEN, would have found it obvious to manufacture said second nozzle part out of PEK, with the expected result that the resulting second nozzle part would be capable of dispensing liquids without corrosion due to chemical exposure.

10. Regarding claim 10, MOEN discloses a nozzle (**liquid dispenser 10**) comprising a receiver (**spool 56**); a first nozzle part (**barrel 22**) formed in a cylindrical shape, the first nozzle part (**22**) communicating with the receiver (**56**), the first nozzle part (**22**) being coaxial with and separate from the receiver (**56**); and a second nozzle part (**tip insert 32**) formed in a cylindrical shape having an inner diameter smaller than that of the first nozzle part (**22**), and an outer diameter equal to that of the first nozzle part (**22**), the second nozzle part (**32**) being connected to the first nozzle part (**22**), wherein the second nozzle part (**32**) is disposed nearer to the coating object than the first nozzle part (**22**).

11. MOEN does not specifically disclose what materials the second nozzle part (132) is composed of. However, as described in paragraph 9 above, one of ordinary skill in the art at the time of the invention, motivated by a need to improve the durability of the nozzle of MOEN, would have found it obvious to manufacture said second nozzle part out of PEK, with the expected result that the resulting second nozzle part would be capable of dispensing liquids without corroding due to chemical exposure.

Response to Arguments

With respect to claims 1-8, MOEN meets the new limitations recited in the amended claims. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

12. With respect to claims 9-10, applicant argues that the use of PEK in the nozzle of the primary reference is non-obvious because there is no teaching in RAU to suggest that PEK would provide a nozzle part where coloring agent hardly adheres to the second nozzle member, and where the coloring agent with a specific amount thereof per spouting can be spouted. While RAU makes no mention of the adherence of coloring agents, RAU does teach that PEK-based materials have the advantage of high tensile strength and good resistance to wear, creep, and corrosion (RAU: column 7, lines 42-51 and column 2, lines 8-18). The prior art does not need to teach the identical advantage discovered by the applicant in order to provide a motivation to combine, so long as some advantage (in this case, resistance to wear, creep, or corrosion) is taught (See MPEP 2144 and *In re Kahn*, 441 F.3d 977, 987, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert Hilton whose telephone number is (571)-270-5519. The examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on (571)-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALBERT HILTON/
Examiner, Art Unit 1792

/Parviz Hassanzadeh/
Supervisory Patent Examiner, Art Unit 1792